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July 27, 2001

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Via Federal Express

Magalie Roman Salas, Commission Secretary  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Comments of Small Western LECs  
CC Docket No. 96-45/CC Docket No. 00-256  
Our File No. 7020-6000-G.15

Dear Ms. Salas:

Enclosed for filing please find an original and seven copies of the comments of a group of Small Western LECs in the above-referenced proceeding. These comments are filed in response to the Commission's Further Notice of Proposed Rulemaking issued as part of Commission Order FCC 01-157, adopted May 10, 2001, and released May 23, 2001.

Please file-stamp and return the additional (seventh) copy of our comments in the enclosed stamped, self-addressed envelope.

Sincerely,



Sean P. Beatty

SPB:ncg  
6000G001.ltr  
Enclosures

Handwritten signature: CHG  
FBI/DOJ

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**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Multi-Association Group (MAG) Plan for	)	CC Docket No. 00-256
Regulation of Interstate Services of	)	
Non-Price Cap Incumbent Local Exchange	)	
Carriers and Interexchange Carriers	)	

**COMMENTS OF THE SMALL WESTERN LECs**

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Attorneys for Small Western LECs

July 27, 2001

In response to the Commission's Further Notice of Proposed Rulemaking (FNPRM) in the captioned proceeding issued as part of Commission Order FCC 01-157, adopted May 10, 2001, and released May 23, 2001, Calaveras Telephone Company, Cal-Ore Telephone Co., Ducor Telephone Company, Evans Telephone Company, Foresthill Telephone Co., Humboldt Telephone Company, Kerman Telephone Co., Oregon-Idaho Utilities, Pinnacles Telephone Co., The Ponderosa Telephone Co., Sierra Telephone Company, Inc., The Siskiyou Telephone Company, and The Volcano Telephone Company (the Small Western LECs) respectfully present their following comments. The due date for these comments has been established as July 30, 2001, which is 30 days from the June 29, 2001, date of publication of the FNPRM in the Federal Register.

## **I. INTRODUCTION.**

The Small Western LECs are small, independent local exchange carriers serving high-cost, rural areas in the states of California, Idaho, Nevada, and Oregon. As small, incumbent LECs, they offer a full range of local exchange and exchange access services under existing tariffs and procedures. They also receive support for a substantial portion of their costs of operation from interstate universal service support mechanisms, under the Commission's rules. Each of the Small Western LECs is classified as a "Rural Telephone Company" under the Telecommunications Act of 1996,<sup>1</sup> and each has been designated as an "Eligible Telecommunications Carrier" by its state commission.

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<sup>1</sup>47 U.S.C. Section 153 (37).

## **II. FNPRM ISSUES FOR COMMENT.**

In Order FCC 01-157, the Commission declined to adopt the proposal of the Rural Task Force to "freeze" high-cost loop support on a per-line basis in rural carrier study areas where a competitive eligible telecommunications carrier has initiated service. Several concerns stated in the Order led to the Commission's decision not to adopt this entry support level freeze.<sup>2</sup> These reasons included:

- The anticipated limited benefit of the freeze and the possibility that a particular carrier's support could be frozen above the actual cost of service in future years.
- The speculative nature of the assumption that a competitive carrier would capture a substantial portion of incumbent carrier lines during the five-year life of the RTF plan.
- The existence of the indexed cap on the fund that will operate to limit excessive fund growth.
- The potential effect of such a freeze on incentives for efficient growth in rural telecommunications infrastructure.
- The possible incentive of the freeze to cause incumbent carriers to oppose ETC designation of new entrants.
- The complexity and burden of the regulations that would be required to implement the support level freeze.

The FNPRM invites commentors to propose possible alternative measures to address the possibility of excessive fund growth due to the absence of the entry support level freeze. The Small Western LECs do not have such a proposal to present to the Commission at this time. They believe, instead, that the reasons that the Commission found persuasive in declining to adopt the entry support level freeze proposal are valid concerns and that such a proposal would

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<sup>2</sup>Order FCC 01-157 at paragraphs 123-130, 208.

be more likely to cause harm than benefit.<sup>3</sup>

In particular, the unknown (and likely limited) extent of competitive carrier entry in remote and high-cost service areas does not justify the adoption of a mechanism that is essentially premised on the assumption that such entry will be extensive and will lead to excessive fund growth. The Commission has noted its intention to monitor the impact of competitive entry in rural carrier study areas to ensure that excessive fund growth does not occur.<sup>4</sup> To this end the Commission has adopted procedures that will provide quarterly reports of relevant line count data.<sup>5</sup> With this information, the Commission will be aware of the actual impact of competitive entry upon the fund and can take action if adverse impacts arise. This monitoring approach is preferable to adopting a complex and most-probably unnecessary entry support level freeze mechanism which has the potential of adversely impacting the Commission's universal service policy goals.

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<sup>3</sup>"In sum, we conclude that, at this time, the costs of adopting the Rural Tasks Force's proposal to freeze high-cost loop support in competitive study areas would significantly outweigh the potential benefits." *Ibid.* at paragraph 130.

<sup>4</sup>*Ibid.* at paragraph 211.

<sup>5</sup>*Ibid.* at paragraphs 131-133.

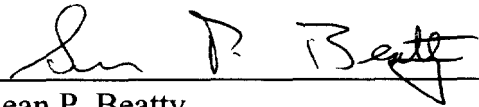
### III. CONCLUSION.

The Small Western LECs support the Commission's conclusion that sound policy considerations weigh against adoption of the proposed entry support level freeze. They recommend that the Commission maintain its rejection of the freeze proposal.

Dated: July 27, 2001

Respectfully Submitted

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